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April 30, 2003

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street
Washington, D.C. 20554

RE: ***CG Docket No. 02-278***
Telephone Consumer Protection Act of 1991 (the "Act")
Further Notice of Proposed Rulemaking ("Further Notice")

Dear Ms. Dortch:

We appreciate this opportunity to provide comment on how the Federal Communications Commission (the "Commission") can best fulfill its obligations under the Do-Not-Call Implementation Act, signed into law on March 11, 2003 (the "Do-Not-Call Act"). Household Bank (SB), N.A. ("Household") is one of the largest issuers of MasterCard and VISA credit cards in the United States. Household's principal bank card programs are the GM Card, a co-branded product offered in conjunction with General Motors, and the Union Privilege credit card program, an affinity program offered in conjunction with the AFL-CIO. In addition, through its Household Bank and Orchard Bank branded programs, Household offers credit cards to middle-market Americans under-served by traditional credit card providers. Household makes its credit card products available via mail, telephone, the internet, and partnership marketing. Household's credit cards are serviced by its affiliates, Household Credit Services, Inc. and Household Credit Services (II), Inc.

Household and its affiliates maintain a centralized do-not-solicit (e.g., do-not-mail, do-not-call) database with approximately 24 million consumer names, addresses, and/or telephone numbers. This database is populated with information Household obtains from the Direct Marketing Association (the "DMA"), state do-not-call lists, and do-not-call requests received directly from consumers pursuant to the TCPA. In the fall of 2003, Household will also receive nationwide do-not-call data from the Federal Trade Commission (the "FTC"). Accordingly, the Commission's decision as to whether to establish what would now be a second national do-not-call list will directly and substantially impact the maintenance and operation of Household's do-not-solicit database, as well as its telemarketing policies and procedures.

We commend the Commission's stated goal to enhance consumer privacy protections without imposing undue burdens on the telemarketing industry, consumers, and regulatory

agencies. And, as stated in our comment letter ("Original Letter")[1] to the Commission's Notice of Proposed Rulemaking, released September 18, 2002,[2] we continue to support the Commission's well-reasoned decision to adopt the company-specific approach as the best means of accomplishing the purposes of the TCPA. However, while we noted in our Original Letter that we could support the Commission's establishment of a national do-not-call list if it clearly preempted all state do-not-call lists[3], in the wake of the FTC's adoption of its amended Telemarketing Sales Rule (the "TSR") our position in this regard has changed.

As set forth in the Commission's Further Notice, the Do-Not-Call Act requires the Commission to consult with the FTC in order to "maximize consistency" with the TSR. We believe the only way the Commission can accomplish this objective with respect to the FTC's implementation of a national do-not-call registry (the "FTC Registry") is to reaffirm its 1992 decision not to implement a national do-not-call list.

The Commission's Report and Order, released October 16, 1992, ("Report")[4] illustrates that the Commission carefully weighed the costs and benefits of establishing a national do-not-call list before reaching its decision to require the company-specific do-not-call list approach. In its Report, the Commission concluded that the company-specific approach "is the most effective and efficient means to permit telephone subscribers to avoid unwanted telephone solicitations" and "would best protect residential subscriber confidentiality because do-not-call lists would not be universally accessible".[5] The Commission also noted that company specific lists are "more likely to be accurate than a national database" and that the minimal costs of maintaining an internal list are less likely to be passed on to consumers.[6] Finally, the Commission concluded that "the company-specific do-not-call list alternative represents a careful balancing of the privacy interests of residential subscribers against the commercial speech rights of telemarketers and the continued viability of a valuable business service".[7]

Every single one of the Commission's stated reasons for adopting the company-specific approach continues to hold true today. More importantly, each of those reasons is even more persuasive in light of the FTC's adoption of its Registry, which will be in addition to, and not preemptive of, all of the state do-not-call lists currently and soon to be in existence. It is impossible to imagine that the Commission would have reached any other conclusion in 1992 if its considerations were weighed in light of an already existing national do-not-call list, not to mention over 24 existing and pending state do-not-call lists. As explained in our Original Letter and further below, there is no rational basis for the Commission to reach any other conclusion now.

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[1] See Household letter dated December 6, 2002.
[2] Notice of Proposed Rulemaking, CG Docket No. 02-278.
[3] See Household letter at paragraphs 8 and 24.
[4] Report and Order, CC Docket No. 92-90.
[5] Id., at paragraph 23.
[6] Id.
[7] Id.

Quite simply, there is no need for even one national do-not-call list if it does not have preemptive effect, let alone a second national do-not-call list, regardless of its preemptive effect (which would be useless to those entities also subject to the TSR). Without question, a second national do-not-call list will result in significant burden and confusion (in addition to that which has been and will be caused by the FTC Registry) to the telemarketing industry, consumers, and regulators, that is not remotely outweighed by any possible benefit. Consumers will not know, and should not be put in the position of having to know, which list applies to what telephone calls and which telemarketers. As a result of their confusion, and in an abundance of caution, consumers will most likely enroll on their own state lists and both national lists. Consequently, after purchasing every state do-not-call list plus two national do-not-call lists, telemarketers will end up with information pertaining to millions of consumers in duplicate and triplicate. This is anything but an effective and efficient way to accomplish the goals of the TCPA.

Now more than ever the Commission's company-specific approach remains the best way to (i) honor consumer do-not-call preferences efficiently and effectively, (ii) balance consumer privacy interests with commercial free speech and the conduct of legitimate business practices, (iii) minimize costs and confusion to consumers, the telemarketing industry, and regulatory agencies, and (iv) maximize consistency with the FTC Registry.

Once again, we appreciate this opportunity to provide further comment on these important issues. If you should have any questions regarding this letter, please feel free to contact me at (847) 564-6324.

Sincerely,

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